

Special Educational Needs and Disability (SEND) Reforms

SCHOOL LEADERS

Introduction

The special educational needs and disability (SEND) Code of Practice has been revised to reflect the changes to legislation, regulations and Coalition Government policy.

The Code of Practice provides statutory guidance on what local authorities, health and social care services, schools, colleges and other education and training providers, and individual staff working in those settings (a) must do and (b) should do to implement the reforms.

The main changes

- Young people or parents of a child with an Education, Health and Care (EHC) plan have the right to request a personal budget for the additional support that the child, young person or family needs. The personal budget may be a 'notional fund', where the school or local authority holds the funds and commissions the support specified in the EHC plan, or a direct payment. In the case of direct payments, the young person or family receives the money to contract, purchase and manage services themselves.
- The statement of special educational needs (SEN) is replaced by an EHC plan. The EHC plan also replaces Learning Difficulty Assessments (LDAs) for young people post-16. EHC plans are broader than statements of SEN and also cover education-related health and social care provision. The EHC plan has a greater focus on outcomes than the statement of SEN.
- The Code of Practice is extended to cover both children and young people with SEN and children and young people with disabilities.
- The Code of Practice identifies four broad areas of need: communication and interaction, cognition and learning, sensory and/or physical needs, and social, emotional and mental health difficulties. The Code of Practice no longer makes reference to behavioural difficulties.
- The categories of School Action and School Action Plus are replaced by a single category of SEN for all of those who do not have an EHC plan.
- The Code of Practice now covers children and young people from birth to 25.
- Parents and young people must be consulted and participate in decisions about issues that affect them/their child. This includes decisions about how money will be used to fund support and strategic decision making.
- Local authorities are required to prepare and publish a Local Offer. The Local Offer sets out the support available to children, young people and their families locally. It should identify and respond to the needs of children, young people who have SEND and their families.
- Schools are required to publish an SEN information report on their website. This sets out how they support pupils with SEN.
- The independent and voluntary sectors play a greater role in the design and delivery of provision for children and young people with SEN.

- Local authorities and partner commissioning bodies in health and social care are required to co-operate and make joint arrangements for commissioning education, health and care provision for children and young people with SEN.

There is a period of transition when both the new legislation and regulations and the legislation and regulations set out in the SEN Code of Practice (2001) will operate. This is intended to allow local authorities, schools and other agencies to introduce changes over a period of time. Children and young people with a statement of SEN may retain their statement for up to three years from September 2014. Those newly assessed will be assessed for an EHC plan.

What school leaders *must* do

- The school must appoint a special educational needs co-ordinator (SENCO) who is a qualified teacher. Where the SENCO is newly appointed to the SENCO role, they must either have, or gain within three years of appointment, the National Award for SEN Co-ordination.
- The headteacher must ensure that the SENCO is able to fulfil their role, including their strategic role for SEN.
- The headteacher and governing body or proprietor must ensure that the school complies with the principles set out in the Code of Practice.
- The headteacher and governing body or proprietor must ensure that arrangements are in place to enable parents and young people with SEN to be consulted and participate in decisions about issues that affect them/their child. This includes decisions about how money will be used to fund support and strategic decision making.
- The headteacher and governing body or proprietor must comply with the Equality Act 2010, including making reasonable adjustments for children and young people with disabilities and preparing and publishing an accessibility plan.
- The headteacher and governing body must ensure that the school provides appropriate support to children and young people with medical conditions and that appropriate safeguarding arrangements are in place. They must ensure that staff know what they should do to implement the different requirements.
- The Dedicated Schools Grant (DSG) includes a notional budget for pupils with SEN. The headteacher must ensure that funding is available to support pupils with SEN.
- School leaders must engage with the local authority over the arrangements for agreeing personal budgets.
- School leaders must ensure that information about the school's provision for SEN is published on the school website. Regulations set out what information must be included in the SEN information report.
- The governing body or proprietor and headteacher have a duty to co-operate with the local authority. This means, for example, that they must work with the local authority to develop the Local Offer and establish joint commissioning arrangements.

What school leaders *should* do

- The governing body and the headteacher should recognise the SENCO's strategic role and seek their advice on SEN policy and practice across the school.
- School leaders should use school-level and national data about pupil performance and progress to identify patterns in the identification of SEN. The identification of SEN should form part of the school's overall approach to monitoring the progress and development of all pupils. School leaders

should regularly review how expertise and resources used to address SEN can be used to build the quality of whole school provision.

- School leaders should identify and meet the SEN-related training and development needs of all staff, including class and subject teachers and support staff. Performance management and arrangements for continuing professional development (CPD) should cover the quality of teaching for pupils with SEN and the progress that those pupils make.
- The SENCO, class and subject teachers and other staff should have time within the working day to plan, prepare and assess the needs of pupils with SEND, including meeting with colleagues, and undertake CPD.
- The headteacher and governing body or proprietor should co-ordinate SEN support, support for children and young people with medical conditions, and arrangements for safeguarding.

Support school leaders should expect

The governing body or proprietor should provide strategic leadership of SEN. They should support the headteacher and other school leaders to implement the SEND reforms, including ensuring that the necessary resources are allocated to enable implementation.

The local authority should provide strategic oversight of SEN locally. The local authority should ensure that every school knows what services are available to support SEN, including the arrangements for assessing and preparing EHC plans, and the specialist services available to support both pupils and schools.

The local authority should engage schools in discussions about the arrangements for commissioning specialist provision. This should include arrangements for personal budgets and steps to safeguard schools and other providers against inappropriate requests from parents and young people. For example, the arrangements should make it clear how a headteacher will be supported if they refuse a request from a parent or young person to use a direct payment to commission provision that does not serve the best interests of the child/young person or other pupils at the school.

The Local Offer is a key source of information about SEND provision locally. The Local Offer should enable the school to see what support is available, including advice and support from the local authority, local education, health and care services, and other schools.

If the SENCO has strategic responsibility for SEN, they should support school leaders by providing professional advice on SEN-related matters. This includes advice about the school's approach to SEN, the allocation of resources to meet the needs of pupils with SEN, issues related to implementation, and teachers' and support staff CPD and training needs.

The NASUWT's main concerns

The NASUWT has a number of concerns about the changes.

The reform process

- Evaluations of the SEND pathfinder programme have revealed a number of issues that could undermine effective implementation of the reforms.¹ These include issues related to multi-agency working, workforce development and non-pathfinder areas' readiness to implement the reforms.

1 Department for Education (March 2014) *The SEN and Disability Pathfinder programme Evaluation: Readiness for reform and effectiveness of Pathfinder Champions*, and earlier evaluation reports from June 2013, October 2013 and January 2014.

Feedback to the NASUWT from staff working in some pathfinder areas also indicates that they have concerns about the timescale for implementing the reforms and the extent to which what has been tested can be 'scaled up' effectively.

- The reforms are being introduced over three and half years from September 2014. Whilst this is intended to help schools, colleges, local authorities and other providers introduce the changes, it may increase the complexity of procedures and processes.

Strategic management

- School leaders need to consider how the different education reforms impact on policies and practice across the school. However, the timescale for reform makes a proper review of policies and practice very difficult. There is a considerable risk that schools will not review their policies and there will not be a coherent approach to implementation. This could place the school at risk, particularly if it is to be inspected in the near future.
- There is an assumption that children and young people who are eligible for a statement of SEN or a LDA will have an EHC plan. However, there is considerable scope for interpreting level of need. The complexity of the EHC assessment and planning process and cuts to services may mean that fewer plans are issued. Children without an EHC plan have no statutory entitlement to support. School leaders may find that they have to plan for and manage provision for pupils with more complex SEND-related needs, without access to specialist advice and support.

Funding issues

- Cuts to local authority budgets and other services that support children and young people with SEN mean that schools may not be able to access appropriate external advice and support.
- Some parents may want to use the Personal Budget to employ somebody to support their child in school. They may want to decide who is employed and how they are employed. This could undermine the headteacher's authority and operate against the best interests of both the child and other pupils in the school. Whilst the headteacher has the power to veto such requests, they may come under significant pressure from individual parents who are only interested in their child. It is unclear whether local authorities will provide headteachers with the necessary support and protection.

Training and professional development

- The SEND reforms assume that staff will be trained to support pupils with SEN effectively. However, evidence from a variety of sources suggests that many teachers do not feel that they have the necessary training and support to meet the needs of pupils who have SEN. There is a concern that this is overlooked in performance management where the focus is often on data and meeting narrowly defined targets rather than on how teachers can be developed and supported.

Workload

- There is a significant risk that strategic bodies will introduce bureaucratic and burdensome systems and require schools to provide unnecessary information. For example, there are reports that some local authorities are expecting schools to produce a School Offer.
- The SEN information report regulations require schools to publish a wide range of information about their SEN provision. This is likely to be very time-consuming.
- Evidence from SEND pathfinders indicates that some schools are being expected to take on the role of key worker. The key worker plays a vital role in bringing services together and enabling services to share information. The role is likely to be very time-consuming and may divert resources away from pupils in the school.

Academy chains

- Academy chains should adopt a strategic approach to SEN. This must involve them co-operating with each of the local authorities where their schools are located. There is a risk that some academy chains, especially chains that operate across a number of local authority areas, will seek to establish their own approach to meeting the needs of pupils with SEN. School leaders may come under pressure from the academy trust and their local authority where policies conflict.

NASUWT advice and support

School leaders must contact the NASUWT for advice if problems arise.

The NASUWT would like to collect evidence about the sorts of problems that teachers, SENCOs and school leaders are encountering. The Union will use this information to identify how it can better support members, including pressing for changes to policies and practice nationally, locally and in schools. School leaders should e-mail the NASUWT (education@mail.nasuwt.org.uk) with brief information about any issues they feel the Union should be aware of and which need to be addressed.

